

REMARKS

The Applicants respectfully request reconsideration in view of the following amendments and remarks. Claims 9, 24-26, 29, and 30 have been amended. Claims 1-8, 17-23, and 31-43 have been cancelled. No claims have been added. Accordingly, claims 9-16 and 24-30 are pending in the Application.

I. Examiner Interview Summary

Applicants acknowledge with appreciation the Examiner's granting of an interview with Applicants' representatives Farzad E. Amini and Dimitri Kirimis on February 25, 2010 via telephone. During the interview, the Office Action of September 22, 2009 was discussed. The Examiner agreed that amending the claims to cure the alleged deficiencies under 35 U.S.C. § 112, would also probably overcome the 35 U.S.C. § 103 rejections. No other agreements were reached during the interview.

II. Claim Rejections – 35 U.S.C. § 112

The Examiner has rejected claims 9-16 under 36 U.S.C. § 112, second paragraph for allegedly failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. Specifically, the Examiner alleges that the term “intercept” as used in these claims is vague.

In response, the Applicants amend the claims to further clarify them. As amended, the Applicants submit that claims 9-16 clearly define the subject matter recited therein. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection to claims 9-16 on this basis.

The Examiner has rejected claims 9-16 under 36 U.S.C. § 112, second paragraph for allegedly being incomplete for omitting essential elements. Specifically, the Examiner alleges that the operation of copying files after interception is omitted from the claims.

In response, the Applicants have amended claim 9 to recite copying the list of all shared files to store them in the database. As amended, the Applicants submit that claims 9-16 include all essential steps. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection to claims 9-16 on this basis.

III. Claim Rejections – 35 U.S.C. § 102/103

Claims 24-26 and 9-12 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication No. 2002/0138471 filed by Dutta et al. (“Dutta”). Claims 13, 14, 29, and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Dutta in view of U.S. Patent Publication No. 2003/0105831 filed by O’Kane (“O’Kane”).

To anticipate a claim, the Examiner must show that a single reference teaches each of the elements of that claim. Thus, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

In regards to claim 9, this claim recites “a transfer device adapted to receive the list of all shared files from each computer of the plurality of computers and automatically copy and store the list of all shared files in the database, thereby tracking file storage on the peer-to-peer file-sharing network” (emphasis added). The Examiner cites paragraphs [0041], [0059], [0060], and [0064]-[0066] of Dutta to allegedly disclose these elements of claim 9. *See* Office Action, Pages 4-6. However, the Applicants have been unable to locate any sections therein which disclose copying and storing the lists of shared files from each computer in a peer-to-peer file-sharing network, as recited in claim 9.

Dutta discloses a peer to peer network that acts as a distributed file sharing system. *See* e.g. Dutta, Paragraphs [0040] and [0045]. Each node is capable of receiving a search query from a user. *See* Dutta, Paragraph [0041]. Each node applies this search query to its own list of shared files and thereby obtains a search result, which is then transmitted to the user. *See* Dutta, Paragraphs [0041] and [0059]. Upon obtaining the search results, containing a listing of only those files meeting the parameters of the search query, the user can then request to download one

or more of the files. See Dutta, Paragraphs [0059] and [0060]. This method of processing a search query in a network can be embodied in the core architecture of a peer-to-peer software application or alternatively it can be embodied in a plug-in or an independent module. See Dutta, Paragraphs [0064]-[0066]. In cases where a plug-in or an independent module is used, these will have access to the search query that was specified by the user and can monitor transactions performed by the core peer-to-peer application.

The Examiner argues that in Dutta, a list of shared files is transmitted to and stored by a computer of the user. This however, is a list of only those files that meet the criteria of a search query which the user submitted seeking particular works. This list is transmitted to the user's computer and then the user downloads preferred files from that list. This is quite different than *a query device requesting a list of all shared files from each of a plurality of computers in the peer-to-peer filesharing network, receiving and then copying and storing each of the received lists in a database to thereby track file storage (or inventory) on the peer-to-peer file-sharing network*. Dutta only concerns itself with improving the experience of the user who is seeking particular works on the peer-to-peer file sharing network, not tracking file storage or inventory on the network.

In regards to claim 24, this claim recites “requesting a listing of an entire library of shared files from each of said plurality of computers connected to the peer-to-peer file-sharing network; receiving the listing of the entire library of shared files from the computer; and automatically storing the listing in a database, thereby tracking file storage on the peer-to-peer file-sharing network” (emphasis added). The Examiner cites paragraphs [0041], [0059], [0060], and [0070] of Dutta to allegedly disclose these elements of claim 24. See Final Office Action, Page 7. Dutta discloses a peer-to-peer node processing a search request received from a user, and returning to the user a listing of files that meet the criteria of the search request. The user then selects a preferred file from this list of files to download. However, the Applicants have been unable to locate any sections in Dutta which disclose *requesting a list of an entire library from each peer-to-peer file sharing computer and then automatically storing the received lists in a database, thereby tracking file storage in the network*. The requests for shared files in Dutta are only specific queries from a user seeking particular works; these are not requests in which a listing of

an entire library (of peer-to-peer file sharing files) is requested from each computer. Accordingly, Dutta does not anticipate claim 24.

Any dependent claims not mentioned above are submitted as not being anticipated or obvious, for at least the same reasons given above in support of their base claims.

It should be noted that not all of the assertions made in the Final Office Action, particularly those with respect to the dependent claims, have been addressed here, in the interest of conciseness. Applicant reserves the right to challenge any of the assertions made in the Final Office Action by the Examiner, with respect to the relied upon art references and how they would relate to Applicant's claim language, including the right to swear behind or otherwise remove an improper art reference.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207 3800.

PETITION FOR EXTENSION OF TIME

Per 37 C.F.R. 1.136(a) and in connection with the Office Action mailed on November 25, 2009, Applicants respectfully petition Commissioner for a three (3) month extension of time, extending the period for response to March 22, 2010. The amount of \$555.00 to cover the petition filing fee for a 37 C.F.R. 1.17(a)(3) small entity will be charged to our Deposit Account No. 02-2666.

Respectfully submitted,

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Dated: March 22, 2010

By 

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CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being submitted electronically via EPS Web on the date shown below to the United States Patent and Trademark Office.


Jessica Huester

200-03-22
Date